

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-11017

Morcous Morgan, et al

v.

Alberto Gonzalez, et al


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**CLERK'S CERTIFICATE**

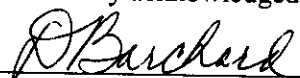
I, Tony Anastas, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 3/11/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on March 18, 2005.

Tony Anastas, Clerk of Court

By:   
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 3/18/05

  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL, HABEAS

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-11017-RCL**

Morgan v. Ashcroft  
Assigned to: Judge Reginald C. Lindsay  
Cause: 28:2241 Petition for Writ of Habeas  
Corpus (federa

Date Filed: 05/20/2004  
Jury Demand: None  
Nature of Suit: 530 Habeas  
Corpus (General)  
Jurisdiction: U.S. Government  
Defendant

**Petitioner**

**Morcous Morgan**

represented by **Anthony Drago, Jr.**  
35 India Street  
Boston, MA 02110  
617-357-0400  
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Email:  
anthony@adragopc.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Saher J. Macarius**  
The Law Offices of Saher  
Joseph Macarius  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Petitioner**

**Erein Ibrahim**

represented by **Anthony Drago, Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Saher J. Macarius**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

V.

**Respondent**

**Attorney General John  
Ashcroft**

represented by **Mark J. Grady**  
United States Attorney's  
Office  
1 Courthouse Way  
Suite 9200  
Boston, MA 02210  
617-748-3136  
Fax: 617-748-3971  
Email:  
mark.grady@usdoj.gov  
*ATTORNEY TO BE*  
*NOTICED*

**Respondent**

**Michael Garcia**  
*Assistant Secretary, U.S.*  
*Immigration and Customs*  
*Enforcement*

represented by **Mark J. Grady**  
(See above for address)  
*ATTORNEY TO BE*  
*NOTICED*

**Respondent**

**Bruce Chadbourne**

represented by **Mark J. Grady**

*Boston Field Director, U.S.  
Immigration and Customs  
Enforcement*

(See above for address)  
*ATTORNEY TO BE  
NOTICED*

**Respondent**

**Sheriff Andrea J. Cabral**

represented by **Mark J. Grady**

(See above for address)  
*ATTORNEY TO BE  
NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
05/20/2004	<u>1</u>	Verified PETITION for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (With Temporary Restraining Order) \$ 5, receipt number 56107, filed by Morcouc Morgan.(Stanhope, Don) (Entered: 05/21/2004)
05/21/2004		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Stanhope, Don) (Entered: 05/21/2004)
06/04/2004	<u>2</u>	Amended PETITION for Writ of Habeas Corpus and Complaint for Declaratory Relief and Emergency Stay of Removal , filed by Morcouc Morgan. (Attachments: # <u>1</u> )(Stanhope, Don) (Entered: 06/07/2004)
06/16/2004	<u>3</u>	MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhaust and Failure to State a Claim</i> by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia.(Grady, Mark) (Entered: 06/16/2004)
06/16/2004	<u>4</u>	MEMORANDUM in Support re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhaust and Failure to State a Claim</i> filed by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. (Attachments: # <u>1</u> Exhibit IJ Decision# <u>2</u> Exhibit

		Appeal Docket# 3 Exhibit BIA Decision# 4 Exhibit BIA Decision on Motion to Reopen)(Grady, Mark) (Entered: 06/16/2004)
06/16/2004	●5	NOTICE by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia <i>of Scheduling of Removal of Petitioner Morgan on June 23, 2004</i> (Grady, Mark) (Entered: 06/16/2004)
06/18/2004	●6	Emergency MOTION to Stay <i>Removal</i> by Morcoux Morgan.(Macarius, Saher) (Entered: 06/18/2004)
06/18/2004	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting 6 Petitioner's Motion to Stay His Removal from the United States.The petitioner is before the court seeking habeas relief from an order of the Bureau of Immigration Appeals denying his petition for asylum. The respondents have filed a motion to dismiss the present petition on grounds the ground that this court lacks subject matter jurisdiction of the petition. The petitioner, however, claims that his removal from the United States is imminent. Accordingly this order is necessary to maintain the status quo pending a determination of the court's jurisdiction. See <i>United Mine Workers v. Lewis</i> , 330 U.S. 258 (1947). (Lindsay, Reginald) (Entered: 06/18/2004)
09/01/2004	●7	Plaintiffs' Emergency MOTION for Release by Morcoux Morgan.(Stanhope, Don) (Entered: 09/02/2004)
09/03/2004	●8	NOTICE by John Ashcroft <i>of Supplemental Authority in Support of the Motion to Dismiss</i> (Grady, Mark) (Entered: 09/03/2004)
09/15/2004	●9	RESPONSE to Motion re 7 MOTION filed by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. (Grady, Mark) (Entered: 09/15/2004)
10/06/2004	●10	NOTICE by John Ashcroft, Andrea J. Cabral, Bruce

		Chadbourne, Michael Garcia of <i>Supplemental Authority In Opposition to the Petitioner's Motion for Release from Custody</i> (Grady, Mark) (Entered: 10/06/2004)
11/08/2004	●	Judge Reginald C. Lindsay : Electronic ORDER entered denying <u>7</u> Motion for Release (Hourihan, Lisa) (Entered: 11/08/2004)
01/31/2005	● <u>11</u>	NOTICE of Hearing on Motion <u>3</u> MOTION to Dismiss for Lack of Jurisdiction , <i>Failure to Exhaust and Failure to State a Claim</i> : Motion Hearing set for 3/7/2005 03:00 PM in Courtroom 11 before Judge Reginald C. Lindsay. (Hourihan, Lisa) (Entered: 01/31/2005)
03/07/2005	●	Electronic Clerk's Notes for proceedings held before Judge Reginald C. Lindsay : Motion Hearing held on 3/7/2005 re <u>3</u> MOTION to Dismiss for Lack of Jurisdiction, Failure to Exhaust and Failure to State a Claim filed by Bruce Chadbourne, John Ashcroft, Michael Garcia, Andrea J. Cabral. The court denies the petitioners' motion for stay and grants the respondents' motion to dismiss for the reasons stated at the hearing. (Court Reporter D. Joyce.) (RCL, law2) (Entered: 03/07/2005)
03/07/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>3</u> MOTION to Dismiss for Lack of Jurisdiction, Failure to Exhaust and Failure to State a Claim by John Ashcroft, Andrea J. Cabral, Bruce Chadbourne, Michael Garcia. For reasons stated in <i>Arloo v. Ashcroft</i> , 238 F. Supp. 2d 381 (D. Mass. 2003), as more fully explained on the record at the hearing, the court grants this motion on the ground that the petitioners waived or are procedurally defaulted from habeas review by failing to file a timely direct appeal of the BIA's denial of their petition for asylum. The petitioners offered no

		explanation for their failure to pursue the direct appeal. Moreover, the present petition raises no cognizable constitutional claim requiring habeas review. The clerk shall enter judgment for the respondents. (RCL, law2) (Entered: 03/07/2005)
03/07/2005	●12	NOTICE of Appearance of Co-Counsel filed by Anthony Drago, Jr on behalf of Morcoux Morgan (Stanhope, Don) (Entered: 03/08/2005)
03/07/2005	●13	MOTION to Hold Decision in Abeyance Pending Outcome of First Circuit Decision filed by Morcoux Morgan.(Stanhope, Don) (Entered: 03/08/2005)
03/07/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered denying 13 Motion to Hold Decision in Abeyance Pending Outcome of First Circuit Decision. (Stanhope, Don) (Entered: 03/08/2005)
03/09/2005	●14	Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of respondents against petitioners(Hourihan, Lisa) (Entered: 03/09/2005)
03/11/2005	●15	Appellant's Emergency MOTION for Stay of Removal. filed by Morcoux Morgan, Erein Ibrahim. (Stanhope, Don) (Entered: 03/15/2005)
03/11/2005	●16	NOTICE OF APPEAL filed by Morcoux Morgan, Erein Ibrahim. \$ 255, receipt number 62690 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 3/31/2005. (Stanhope, Don) (Entered: 03/15/2005)
03/11/2005	●17	CERTIFICATE OF SERVICE filed by Morcoux Morgan, Erein Ibrahim re 15 MOTION to Stay, 16 Notice of Appeal,. (Stanhope, Don) (Entered: 03/15/2005)

03/17/2005	● <u>18</u>	Opposition re <u>15</u> MOTION to Stay filed by Michael Garcia, Bruce Chadbourne, Andrea J. Cabral, John Ashcroft. (Attachments: # <u>1</u> Exhibit 1 - IJ Decision# <u>2</u> Exhibit 2 - BIA Decision# <u>3</u> Exhibit 3 - PACER Docket# <u>4</u> Exhibit 4 - BIA Decision)(Grady, Mark) (Entered: 03/17/2005)
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